

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
3 OAKLAND DIVISION

4 DOE 1, DOE 2, and KASADORE  
5 RAMKISSOON, on Behalf of Themselves and  
6 All Other Persons Similarly Situated,

7 Plaintiffs,

8 vs.

9 AOL LLC,

10 Defendant.

Case No: C 06-5866 SBA

**ORDER DIRECTING DEFENDANT  
TO FILE A REPLY BRIEF**

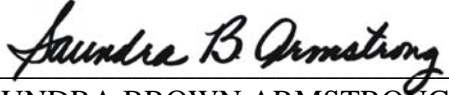
Docket 80

11 This Court previously ordered Defendant America On-Line (AOL) to file “a supplemental  
12 brief that addresses the issue of whether this Court may compel Plaintiffs to litigate their federal  
13 claim under the Electronic Communication Privacy Act in a state court.” Docket 103 at 6. In  
14 addition, the Court ordered Plaintiffs to file a “*response* to AOL’s supplemental brief.” *Id.*  
15 (emphasis added). Plaintiffs’ response brief includes a number of arguments that exceed both the  
16 scope of the contentions presented in AOL’s supplemental brief and the Court’s order for  
17 supplemental briefing. Accordingly,

18 IT IS HEREBY ORDERED THAT AOL shall file a reply brief that addresses Plaintiffs’  
19 contentions that: (1) the forum selection clause does not waive federal jurisdiction;  
20 (2) enforcement of the forum selection clause would violate “federal policy” because Virginia does  
21 not permit class actions; and (3) this Court should resolve Plaintiffs’ claim under the Electronic  
22 Communication Privacy Act on the ground that it presents “novel” issues of law. AOL shall file its  
23 supplemental reply, which shall not exceed five pages in length, by no later than October 30, 2009.

24 IT IS SO ORDERED.

25 Dated: October 21, 2009

26   
27 SAUNDRA BROWN ARMSTRONG  
28 United States District Judge